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Nonresident Withholding Exchange Affidavit

597-B

Attach this form to the back of Form 597-A.

Part I To be completed for a **NONSIMULTANEOUS** Internal Revenue Code (IRC) Section 1031 exchange.

Name of transferor/seller

Name of transferee/buyer

Name, address, state and ZIP code of intermediary

Daytime telephone number
of intermediary

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Address of California real estate being sold

Adjusted basis of California real estate
being sold

Address or location of replacement real estate

Transferor/Seller and Intermediary Agreement

The undersigned transferor/seller of the California real estate listed above hereby certifies, under penalty of perjury, that it is the intent of the transferor/seller to treat the transfer of this property as the first leg in a nonsimultaneous IRC Section 1031 exchange.

The parties agree that:

- If the exchange takes place, and the total sales price exceeds \$100,000 and the transferor/seller (or beneficiary) receives cash or cash equivalent as not like-kind property in the exchange, and such cash or cash equivalent exceeds \$1,500, then the amount required to be withheld will be 7% of any cash or cash equivalent received by the transferor/seller (or beneficiary) not to exceed 3 $\frac{1}{3}$ % of the total sales price.
- If the exchange does not take place or if the exchange does not qualify for nonrecognition treatment, then the amount required to be withheld will be 3 $\frac{1}{3}$ % of the total sales price of the real estate.

The transferor/seller further agrees that a California tax return will be filed reporting the transaction, and that the Franchise Tax Board (FTB), Withhold-at-Source Section, will be notified within 10 days after expiration of the statutory period applicable to IRC Section 1031 exchanges if the exchange does not take place or does not qualify for nonrecognition treatment.

The intermediary or other entity in control of the funds agrees to be liable for withholding the correct amount specified above. The intermediary or other entity in control of the funds agrees to remit all withheld amounts to the FTB using Copy A of Form 597, Nonresident Withholding Tax Statement for Real Estate Sales. Get Form 597 for information on remitting the amount withheld.

Each nonresident transferor/seller participating in the IRC Section 1031 exchange must sign the affidavit.

Signature of transferor/seller

Date

Signature of transferor/seller

Date

Signature of intermediary

Title

Date

General Information**When and Where to File This Form**

Form 597-B, Nonresident Withholding Exchange Affidavit, must be included with Form 597-A, Nonresident Withholding Waiver Request for Real Estate Sales, when a seller requests a reduced withholding amount or waiver, based on the fact that the transfer is intended to be an IRC Section 1031 exchange.

Use this form for common exchange transactions only. If the transaction involves multiple properties or combination simultaneous/nonsimultaneous exchanges contact the FTB, Withhold-at-Source Section.

The appropriate agreement for the type of transaction (nonsimultaneous in Part I or simultaneous in Part II) must be completed and signed by the transferor/seller, and one of the following: the intermediary; the transferee/buyer; or entity in control of the funds. Use Form 597-C, Nonresident Withholding Installment Sale Agreement, for an IRC Section 1031 exchange with an installment provision.

Send affidavits and inquiries to:

WITHHOLD-AT-SOURCE SECTION
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651
Telephone (916) 845-4900
FAX (916) 845-4831

Part II To be completed for a **SIMULTANEOUS** IRC Section 1031 exchange.

Name of transferor/seller	Name of transferee/buyer
Name and address of entity in control of funds	Daytime telephone number of entity in control of funds ()
Address of California real estate being sold	Adjusted basis of California real estate being sold
Address or location of replacement real estate	

Transferor/Seller and Transferee/Buyer or Other Entity in Control of Funds Agreement

The undersigned transferor/seller of the California real estate listed above hereby certifies, under penalty of perjury, that it is the intent of the transferor/seller to treat the transfer of this property as a simultaneous IRC Section 1031 exchange.

The parties agree that:

- a) If the exchange takes place and the total sales price exceeds \$100,000, and the transferor/seller (or beneficiary) receives cash or cash equivalent as not like-kind property in the exchange, and such cash or cash equivalent exceeds \$1,500, then the amount required to be withheld will be 7% of any cash or cash equivalent received by the transferor/seller (or beneficiary), not to exceed 3½% of the total sales price.
- b) If the exchange does not take place or if the exchange does not qualify for nonrecognition treatment, then the amount required to be withheld will be 3½% of the total sales price of the real estate.

The transferor/seller further agrees that a California tax return will be filed reporting the transaction and that the Franchise Tax Board (FTB), Withhold-at-Source Section, will be notified within 10 days of the transfer of the real estate by the seller if the exchange does not take place or does not qualify for nonrecognition treatment.

The transferee/buyer or other entity in control of the funds agrees to be liable for withholding the correct amount specified above. The transferee/buyer or other entity in control of the funds agrees to remit all withheld amounts to the FTB using Copy A of Form 597, Nonresident Withholding Tax Statement for Real Estate Sales. Get Form 597 for information on remitting the amount withheld.

Each nonresident transferor/seller participating in the IRC Section 1031 exchange must sign the affidavit.

_____ Signature of transferor/seller	_____ Date	_____ Signature of transferor/seller	_____ Date
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_____ Signature of transferee/buyer or other entity in control of funds	_____ Title	_____ Date
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